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DECISION



RONEY
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548 *CP*

FILL: B-190583

DATE: February 10, 1978

MATTER OF: Warren W. Tignor - Subsistence while
occupying temporary quarters

- DIGEST:
1. Employee occupied temporary quarters with no cooking facilities and purchased groceries on various days but did not submit a claim for breakfast and/or lunch on those days. Our Office would not object to prorating the claim for groceries, at a reasonable amount for each meal not otherwise claimed. However, the amount allowed for the meals should not exceed the total cost of the groceries.
 2. Transferred employee with spouse and 3 children claimed reimbursement for dinners which the administrative office considered exorbitant and limited reimbursement for each of the dinners to \$29. It is the responsibility of the employing agency to determine whether expenses are reasonable. This Office will not substitute our judgment for that of the agency, in the absence of evidence that the agency's determination was erroneous, arbitrary or capricious.

This action results from the submission by the National Security Agency, Fort George G. Meade, Maryland, of the reclaim voucher of Warren W. Tignor, an employee of the National Security Agency, for an additional amount of subsistence while occupying temporary quarters which was deducted from his original voucher on the basis that his dinner meals were unreasonably high. The matter was submitted to our Office by the Per Diem, Travel and Transportation Allowance Committee, PDTATAC Control No. 77-31.

The pertinent facts in this case are set forth in the record, along with the reasons for disallowance and a determination with regard to the reasonableness of the amounts claimed for subsistence:

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"Mr. Tignor filed a claim for subsistence while occupying temporary quarters during the period 1-24 July 1977. During this period he resided in a Holiday Inn and he indicated on his claim form, * * *, that kitchen facilities were not available. He claimed \$88 for purchase of grocery items and provided receipts, * * *. In view of the fact that kitchen facilities are not available in Holiday Inns, this amount was disallowed.

"The employee claimed \$738.65 for 20 dinner meals plus tips. The cost of meals ranged from \$8.50 to \$74.47. Receipts were provided, * * *. In reviewing the claim and in view of the family composition, 2 adults and 3 children ages 10, 7 and 2, we considered the amount of \$36.93 per meal to be excessive. We considered the meals in the \$50 to \$74 dollar range to be exhorbitant. In the settlement of the claim, we deducted five meals ranging in price from \$52.83 to \$74.47 amounting to \$303.73. The average cost of the remaining meals was \$29 per meal. This amount was considered reasonable and more typical of the cost that would be incurred if the employee was paying the meal costs from personal funds, \$29 per meal was substituted for the amounts actually claimed for the five high cost meals, which resulted in a net disallowance of \$158.73, not \$158.65 claimed by the employee. If we had deducted the high five meal costs and the low five meal costs, we would have had a meal cost average of \$50.84 cents per meal, which we considered excessive. The high five meal costs, only, were deducted and the claim was settled as set forth in this paragraph."

The Federal Travel Regulations (FPMR 101-7) para. 2-5.4a (May 1973) sets forth the type of expenses allowable:

"Actual expenses allowed. Reimbursement shall be only for actual subsistence expenses incurred provided these are incident to occupancy of temporary quarters and are reasonable as to amount. Allowable subsistence expenses include only charges for meals (including groceries consumed during occupancy of temporary quarters), lodging, fees, and tips incident to meals and lodging, laundry, and cleaning and pressing of clothing." (Emphasis added).

The record contains a daily itemization of the subsistence expenses incurred by Mr. Tignor and his family. Generally, on those days that Mr. Tignor shows expenses incurred for groceries, he did not claim other reimbursement for breakfast and/or lunch. Thus, it appears that the expenses for groceries were in lieu of claims for breakfast and/or lunch at commercial facilities on those days, rather than being claims for snacks in addition to the regular meals. Accordingly, we would not object to reimbursement of the expense of groceries merely because the temporary quarters occupied by the employee contained no kitchen facilities. However, since the regulations contain no authority for reimbursement of lump-sum amounts without reference to the 10-day computation periods, the \$88.48 claimed for groceries should be prorated over the number of meals, at a reasonable amount for each meal, not otherwise claimed by Mr. Tignor. See B-165553, November 25, 1968. The amount allowed for the meals shall not exceed the \$88.48 claimed for groceries.

The second issue presented pertains to the reasonableness of the amounts claimed by Mr. Tignor for dinner meals. It is the responsibility of the employing agency, in the first instance, to determine whether expenses claimed by an employee as temporary quarters are reasonable. Where the agency has exercised that responsibility, this Office will not substitute our judgment for that of the agency, in the absence of evidence that the agency's determination was clearly erroneous, arbitrary, or capricious. Matter of Jesse A. Burks, 55 Comp. Gen. 1107 (1976).

Upon reviewing the record and the method used by the agency to determine the reasonableness of the amounts claimed by Mr. Tignor, we believe that there is no basis upon which a finding could be made that their determination was clearly erroneous, arbitrary, or capricious. See Matter of Jesse A. Burks, supra.

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From the information furnished we are unable to determine how the temporary quarters allowance was computed. Paragraph 2-5.4c of the FTR provides that the amount which may be reimbursed for temporary quarters subsistence expense shall be the lessor of either the actual amount of allowable expenses incurred for each 10-day period or an amount computed under the formula set forth in that section.

We also note that the maximum amount that may be paid for temporary quarters subsistence allowance under FTR para. 2-5.4b is \$35 even though the temporary quarters may have been occupied in a high rate geographical area. See Matter of William E. Addis, 55 Comp. Gen. 1337 (1976).

Action on the voucher should be taken in accordance with the foregoing.


Deputy Comptroller General
of the United States